

## Proposed Amendments to the Contract Procedure Rules

## Appendix A

References to the rule numbers in the table below relate to the current rule numbers prior to the proposed amendments being made.

LCC Rule No.	ESPO Rule No.	PROPOSED AMENDMENTS - AS HIGHLIGHTED	EXPLANATION
5(a) (iv)	N/A	<p><b><u>for the following social care services:</u></b></p> <p><b><u>A.</u></b> residential placements sought for an individual with a registered care provider of their choice;</p> <p><b><u>B.</u></b> supported living services sought for an individual with an appropriate care and support provider of their choice under the National Health Service and Community Care Act 1990;</p> <p><b><u>C.</u></b> individual school placements sought for a child with Special Educational Needs (SEN);</p> <p><b><u>D. social care packages managed by or on behalf of individual clients under the personalisation agenda;</u></b></p> <p><b><u>E.</u></b> where certain needs of an individual (either an adult or a child) require a particular social care package, which is only available from a specific provider in the opinion of the Appropriate Chief Officer.</p> <p>In each case the Appropriate Chief Officer must ensure that the provider meets the relevant national minimum standards (for example those standards set by the Health and Social Care Act 2008, OFSTED and HMI) and that a record of the reasons for the choice of provider is maintained on the individual's case notes. A record of the annual cumulative expenditure with each provider will be maintained by each directorate and made available for audit.</p>	<p>Clause amended to include numbering to aid readability.</p> <p>Clause (D) added to include other services where service users are able to choose their own providers.</p>
<b><u>5 (a) v</u></b>	<b><u>N/A</u></b>	<p><b><u>for those unforeseen emergencies, where immediate action is required in order to fulfil the Council's statutory obligations under the Civil Contingencies Act 2004.</u></b></p>	<p>New Clause added to take account of Civil Contingencies Act.</p>

8 (b) (ii)	8 (b) (ii)	commit an offence under the Bribery Act 2010 or <b><u>give any fee or reward, the receipt of which is an offence under</u></b> Section 117(2) of the Local Government Act 1972; or	Clause improved.
9	8	Move Rule 9 higher up the Contract Procedure Rules to promote the Procurement Principles	Rule 9 moved to be between Rule 4 and 5 to raise the profile of Procurement Principles (ESPO amendment - Rule 8 moved to between Rules 3 and 4).

11(b)	10	<p>Table 1: Estimated value £1,000 to £20,0000 under column headed 'Minimum Contract Opportunity Publication':  <del>None</del> <b><u>When inviting quotations officers should consider the benefits of including a local supplier in the invitation to quote where appropriate or applicable to the contract<sup>1</sup></u></b></p> <p><b><u>Footnote 1</u></b>  <b><u>The Council cannot give preference to local suppliers, as there are legislative constraints and such a policy would be incompatible with Best Value. However the Council recognises that there can be barriers limiting or restricting the ability of smaller suppliers to compete for Council business. The Council will seek to reduce the impact of such barriers, where it can do so legally, without discrimination, and without placing unacceptable levels of risk on the Council</u></b></p> <p>Table 1: Estimated value £1,000 to £20, 0000 under column headed 'Documentation':  (If three Quotations cannot be obtained a record of the reasons for this must be maintained <b><u>and forwarded to the appropriate Category Manager</u></b>)</p>	<p>To support the Council's objective of supporting local businesses and at the same time to operate within procurement legislation.</p> <p>Footnote 1 will be added to the end of Table 1.</p> <p>To be consistent with other areas of the Contract Procedure Rules where we are engaging with the Category Manager</p>
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13 (c )	12 (c )	<p>In the case of a Procurement Exercise with an Estimated Value of £100,000 – <b>£20,000</b> or more the award methodology <b><u>process for identifying the most economically advantageous Tender, including selection and award criteria</u></b>, must be agreed in consultation with the appropriate Category Manager <b><u>and included in the RFQ/Invitation to Tender</u></b> and recorded in writing by the Procuring Officer in advance of the issue of the Invitation to Tender and a copy retained on file.</p>	<p>Clause amended so that lower value procurements adhere to best procurement practice - threshold reduced from £100,000 to £20,000 and, ITT/RFQ to include details of selection and award criteria.</p>
13 (d)	12 (d)	<p><del>In all cases where the Estimated Value is equal to or exceeds the EU Threshold the process for identifying a most economically advantageous Tender, including evaluation criteria, must be prepared in consultation with the Category Manager in advance of the issue of the Invitation to Tender and a copy retained on file.</del></p>	<p>Clause deleted - redundant due to revised Clause 13 (c).</p>

14(a)	13 (a)	<p>Unless otherwise agreed by the <del>Director of Corporate Resources</del> <b>Appropriate Chief Officer</b>, the Procuring Officer must ensure, for all Procurement Exercises with an Estimated Value of £20,000 or more but less than the relevant EU Threshold, that Contract Opportunity Publication is given on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market.</p>	<p>Clause amended to replace reference to Director of Corporate Resources to appropriate Chief Officer so as to be consistent with other areas of the Contract Procedure Rules.</p>
14 (b)	13 (b)	<p><del>The publication of the Contract Opportunity Publication must be made</del> <b><u>For all proposed contracts where the Total Value is below the EU threshold, a period of</u></b> at least fifteen days <b><u>should be allowed between the closing date for requests for the Invitation to Tender and either :</u></b>  <b><u>i) the deadline</u></b> <del>before the last date</del> for receipt of Tenders where an Open Tendering procedure is being used, <b><u>or</u></b>  <b><u>ii) and at least fifteen days before the last date</u></b> <b><u>the deadline</u></b> for receipt of Pre-Qualification Questionnaires or Expressions of Interest, where a Restricted Tendering procedure is being used.</p>	<p>Clause amended to clarify it relates to below EU thresholds and to ensure 15 days are allowed for suppliers to complete and return the ITT to LCC.</p>

22 (a)	21 (a)	In the case where the Estimated Value was below the EU Threshold, and following the closing date for receipt of Tenders but before acceptance of any Tender, the Procuring Officer <b><u>in consultation with the appropriate Category Manager</u></b> may carry out Post Tender Negotiations in an attempt to secure improvements in the price or economic advantage in one or more of the following circumstances:	Clause amended to add reference to appropriate Category Manager to be consistent with other areas of the Contract Procedure Rules.
30 (a)	29 (a)	Prior to any extra-variation being agreed <b><u>which would result in an increase in the Total Value of the contract</u></b> the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.	Clause amended to account for the financial implications of a variation (some variations may not have financial implications) and the deletion of redundant wording.
30 (b)	29 (b)	If the Total Value of the contract is under £100,000, <b><u>including the planned variation</u></b> , the Appropriate Chief Officer <b><u>in consultation with the appropriate Category Manager</u></b> shall be authorised to vary the contract.	Clause amended to include the cost of variation within the threshold and consultation with the appropriate Category Manager.

30 (c )	29 ©	<p>In the case of a contract with a Total Value of £100,000 or more:  <u>i) for any <del>extra(s)</del> or variation(s) that would increase or decrease the Total Value of the contract by 10% or more, the Appropriate Chief Officer <b><u>in consultation with the appropriate Category Manager and the County Solicitor</u></b> must gain the prior approval of the Director of Corporate Resources. This authorisation must be issued before the work is carried out, or in the case of an emergency, immediately thereafter.</u></p> <p><b><u>(ii) for any variation(s) that would increase or decrease the Total Value of the contract by less than 10% the Appropriate Chief Officer in consultation with the appropriate Category Manager shall be authorised to vary the contract. This authorisation must be issued before the work is carried out, or in the case of an emergency, immediately thereafter.</u></b></p>	<p>Clause amended to clarify requirements for variations that are less than 10% with the addition of a new Clause 30 © (ii). Wording to include consultation with the appropriate Category Manager and County Solicitor added to mitigate procurement risks. Redundant wording (extra) removed to be consistent with other areas.</p>
30 (d)	29 (d)	<p>In the case of a contract which was originally approved by the Executive and where any <del>extras or</del> variations are considered significant by the Director of Corporate Resources <b><u>or the County Solicitor in consultation with the appropriate Category Manager</u></b>, then the Executive must be informed as soon as practicable.</p>	<p>Clause amended to include County Solicitor and appropriate Category Manager to mitigate procurement risks. Deletion of redundant wording (extras).</p>

30 (e)	30 (e)	<b><u>All contract variations must be within the scope of the original contract.</u></b>	New Clause added to ensure variations are in keeping with the original scope of the contract.
31(iii)	30 (iii)	If the Total Value of a contract, including the planned extension, is under £100,000 and the contract does not provide for the extension the Appropriate Chief Officer, <b><u>in consultation with the Procuring Officer and appropriate Category Manager,</u></b> shall be authorised to extend the contract on a one-off basis, <del>provided that the extension does not exceed 6 months or a Total Value of £25,000, whichever is the greater. If the extension does exceed the greater of 6 months or a Total Value of £25,000 then the Appropriate Chief Officer must gain the prior approval of the Director of Corporate Resources;</del>	Clause simplified by the deletion of unclear wording so that the clause is appropriate for the level of spend and associated procurement risk. Wording amended to include consultation with the Procuring Officer and Category Manager.